

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

## FIX THE COURT

1875 Connecticut Avenue, N.W., Suite 1000  
Washington, DC 20009,

Plaintiff,

V.

Civil Action No.

**DEPARTMENT OF JUSTICE**

950 Pennsylvania Avenue, N.W.  
Washington, DC 20530,

Defendant.

## COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

(1) This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552; and the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201, 2202. Plaintiff seeks injunctive and declaratory relief to compel defendant Department of Justice to disclose requested records.

## Jurisdiction and Venue

(2) This court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B). This court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. §§ 2201(a) & 2202. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

## The Parties

(3) Plaintiff Fix the Court is a national, non-partisan organization that advocates for pro-transparency reforms that would yield a more open and accountable U.S. Supreme Court.

(4) Defendant Department of Justice (“DOJ”) is a department of the Executive Branch of the United States Government. The U.S. Marshals Service (“USMS”) is a component of DOJ. Defendant DOJ is an “agency” within the meaning of 5 U.S.C. § 552(f).

**Plaintiff's FOIA Request and Defendant's Lack of Response**

(5) On March 23, 2018, plaintiff submitted a FOIA request to USMS, seeking disclosure of the following agency records:

1. All documents, including memoranda and correspondence, that contain information on the trips outside of Washington, D.C., on which members of the U.S. Marshals Service accompanied U.S. Supreme Court justices between Jan. 1, 2016, and Dec. 31, 2017, including:
  - a. The name of the justice who took each trip and the dates of each trip;
  - b. The location, either U.S. or foreign city or airport, from which and to which that justice traveled; and
  - c. The cost to the USMS for accompanying the justices on each of these trips; and
2. All documents, including memoranda and correspondence, that contain information on all FY16 and FY17 reimbursements, including dates in which the payments were made and the dollar amounts for each, from the judicial branch to the U.S. Marshals Service for:
  - a. Perimeter security at U.S. courthouses;
  - b. Security of U.S. magistrate, district and circuit judges;
  - c. Security for U.S. Supreme Court justices in Washington, D.C.; and
  - d. Security for U.S. Supreme Court justices outside of Washington, D.C.

In order to assist USMS in responding to its FOIA request, plaintiff stated:

To be clear, the second part of this request (number 2) seeks to understand the payments made to the U.S. Marshals Service for security in and of the judicial branch during those two fiscal years, and any documents that outline this information will be sufficient to satisfy the request. Like our previous FOIA request from June 2016, we do not seek any proprietary information about security procedures or protocols.

Additionally, if the FY17 numbers referred to above are not yet available, please send documents for FY16 at the first available moment and then supplement them with the FY17 numbers when they become available.

(6) By letter to plaintiff dated July 11, 2018, USMS acknowledged receipt of plaintiff's FOIA request and assigned it "Request No. 2018USMS32610." USMS informed plaintiff that "the estimated search fees associated with your request total \$11,920.00." USMS further

informed plaintiff that plaintiff had a right to file an administrative appeal of the agency's determination.

(7) Plaintiff appealed the agency's determination that it did not qualify for treatment as a "representative of the news media," and on or about September 27, 2018, the agency reversed its prior determination and granted plaintiff "news media" status. By letter to plaintiff dated September 27, 2018, the agency informed plaintiff that its FOIA request was being "remand[ed] . . . to USMS for further processing."

(8) On numerous occasions since September 2018, plaintiff has sent email messages to USMS asking about the status of its FOIA request.

(9) To date, plaintiff has not received a determination or any final response from USMS or defendant DOJ concerning the FOIA request plaintiff submitted on March 23, 2018.

#### **CAUSE OF ACTION**

##### **Violation of the Freedom of Information Act for Wrongful Withholding of Agency Records**

(10) Plaintiff repeats and realleges paragraphs 1-9.

(11) Plaintiff has exhausted the applicable and available administrative remedies with respect to defendant's processing of plaintiff's FOIA request.

(12) Defendant has wrongfully withheld the requested records from plaintiff by failing to comply with the statutory time limit for rendering a determination or response to plaintiff's FOIA request.

(13) Plaintiff is entitled to injunctive and declaratory relief with respect to the release and disclosure of the requested documents.

#### **Requested Relief**

WHEREFORE, plaintiff prays that this Court:

- A. Order defendant DOJ and its component, USMS, to disclose all non-exempt records responsive to plaintiff's FOIA request immediately;
  - B. Issue a declaration that plaintiff is entitled to disclosure of the requested records;
  - C. Provide for expeditious proceedings in this action;
  - D. Award plaintiff its costs and reasonable attorneys fees incurred in this action;
- and
- E. Grant such other relief as the Court may deem just and proper.

Respectfully submitted,



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DAVID L. SOBEL, D.C. Bar No. 360418  
5335 Wisconsin Avenue, N.W.  
Suite 640  
Washington, DC 20015  
(202) 246-6180

TYLER K. COOPER (Admitted in New York)  
1875 Connecticut Avenue, NW  
Suite 1000  
Washington, DC 20009  
(202) 780-4990

*Counsel for Plaintiff*